

ORDINANCE NO. 2022-991

AN ORDINANCE OF THE CITY OF WACO, TEXAS, AMENDING SECTION 28-931 IN CHAPTER 28 “ZONING” OF THE CODE OF ORDINANCES, FOR THE PURPOSE OF REMOVING THE REQUIREMENT FOR A PERMIT AND FEES ASSOCIATED WITH HOLDING ESTATE SALES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR PENALTIES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, it is necessary to make certain amendments to Section 28-931 of Chapter 28 “Zoning” of the Code of Ordinances of the City of Waco, for the purpose of removing the requirement for a permit and fees associated with holding Estate Sales; and

WHEREAS, the City Plan Commission conducted a public hearing on proposed changes to Chapter 28 “Zoning” of the Code of Ordinances of the City of Waco concerning the regulations of holding Estate Sales on November 14, 2022; and

WHEREAS, the City Council conducted a public hearing on these proposed changes on December 6, 2022,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WACO, TEXAS:

Section 1. That all of the recitals and preambles hereinabove stated are found to be true and correct and are incorporated herein and made a part of this ordinance.

Section 2. That Section 28-931 of Chapter 28 “Zoning” of the Code of Ordinances of the City of Waco shall be amended as follows (Additions / ~~Deletions~~):

Chapter 28 – ZONING

ARTICLE V. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 3. ACCESSORY STRUCTURE AND USES

Sec. 28-931. Estate sales.

- (a) For the purposes of this section and section 28-932, an “estate sale” is the sale of all or substantially all of a person’s tangible personal property due a person’s death, mental or physical incapacity.
- (b) Estate sales will be permitted in the R-1 district through R-3 district and in other districts where primary use of the property is residential.
- © Estate sales are permitted under the following conditions:

- ~~(1) No person shall have an estate sale within the city limits without first obtaining a permit.~~
- ~~(2) Any person desiring to have an estate sale shall make application with the city for a permit. The application shall include the name of the person, address of the person, location of the sale, and the dates of the sale.~~
- ~~(3) The applicant shall pay the permit fee established by the city council before the permit is issued.~~
- ~~(4) A copy of the permit shall be posted in a conspicuous place during the time and at the place where the sale is being held.~~
- (1) Only tangible personal property may be sold at the estate sale.
- (2) No property acquired solely for the purpose of resale shall be sold at an estate sale.
- (3) An estate sale may not be conducted by persons who habitually engage or holds themselves out as engaging in the business of selling tangible personal property unless they collect and report sales tax on the items sold in the manner prescribed by state law.
- (4) There shall not be more than one estate sale by the same property owner or tenant at the same location during any 12-month period.
- (5) All sales shall be confined to the house and garage of the premises.
- (6) The duration of any estate sale shall not exceed three consecutive calendar days.

Section 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 5. That a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-14 of the Code of Ordinances of the City of Waco, which shall be a fine of not less than \$1.00 and no more than \$2,000.00, and each day a violation exists shall be a separate offense.

Section 6. That nothing in this ordinance shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 7. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section,

subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 8. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED:

FIRST READING: this 6th day of December 2022.

SECOND READING: this 20th day of December 2022.

Dillon Meek, Mayor
City of Waco, Texas

ATTEST:

Michelle Hicks, City Secretary

APPROVED AS TO FORM & LEGALITY:

Jennifer Richie, City Attorney

APPROVED:

Clint Peters, Director of Development Services